Volvo Trucks

Public Comments to the EPA's Non-conformance penalty (NCP) Notice of Proposed Rule Making (NPRM)

Tony Greszler, VP Government Relations

- Navistar is not a "technological laggard" and does not qualify for non-conformance penalties
- The proposed non-conformance penalties are grossly insufficient
- There was no good cause for the Interim Final Rule

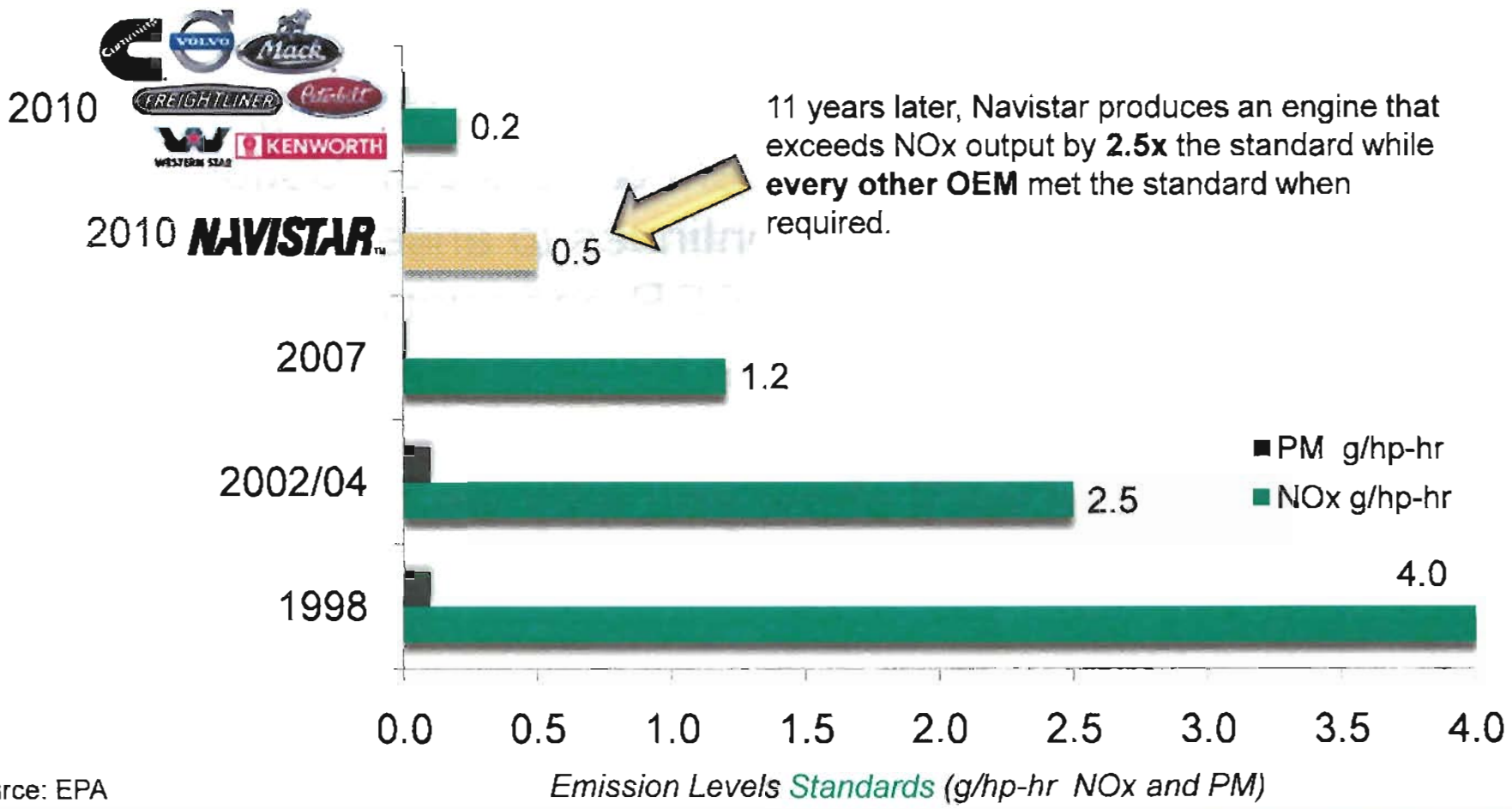
Navistar

is not a "technological laggard" (a designation necessary to be eligible for non-conformance penalties within CAA) and does not qualify for non-conformance penalties

"Technological Laggard"

- 'A "technological laggard" is considered to be a manufacturer who cannot meet a particular emission standard due to technological (not economic) difficulties and who, in the absence of NCPs, might be forced from the marketplace.'
  - Source: EPA Background to non-conformance penalties

Since **2001**, the industry has known the 2010 EPA emission limit standards.



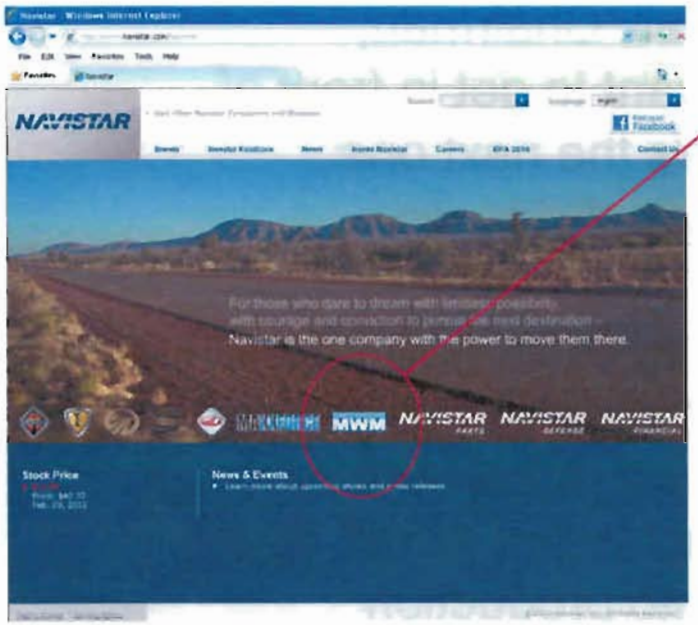
Source: EPA

Navistar is not a "technological laggard" and does not qualify for non-conformance penalties. They point this out themselves.

- **January 5, 2009** in reporting "near record earnings" analyst call: Chairman, President & CEO Dan Ustian said that "the question that continues to arise all over the industry is, why are we doing EGR and everybody else is doing SCR? And the answer for us is simple, because **we can do both but we're the only ones that can do both and we'll show you why we can do it."**

Source: SeekingAlpha -Navistar International Earnings Call Transcripts

Navistar has access to SCR



Press Release (11/22/2006) - MWM INTERNATIONAL: "The engines displayed at the company's booth were: (NGD 9.3E and Acteon 6,12 TCE,) **both equipped with SCR (Selective Catalytic Reduction) after treatment technology"**

"MWM INTERNATIONAL MOTORES is a wholly owned subsidiary of the American **Navistar International** - a major worldwide diesel engine manufacturer - and current leader in diesel engine technology and development in Latin America."

From Feb. 2012 website:
Navistar Maxxforce Engine

Aftertreatment	SCR

SCR = Selective Catalytic Reduction

March 9, 2011 Navistar quarterly earnings Call: Chairman, President & CEO Dan Ustian said: "But we want to get in front of the 0.2 now because we can anticipate, here's the next one coming out that 0.2 can't be done. **So what we did is we submitted to the EPA a certification of 0.2 to take that argument away. We don't plan on using this for a while but we're going to have it out there on the shelf that says that can be done and we can meet the standards and get all the performance features as well**. So that's what we've **done**. When you hear about that, it's not that it's coming into production tomorrow. It's just to get it out there and take all that argument away.'"

Source: SeekingAlpha -Navistar International Earnings Call Transcripts

Feb. 1, 2012 TruckingInfo.com

"Customers Wouldn't Pay Extra for Any Non-Compliance Penalties Imposed on Navistar, Hebe Says"

..." Meanwhile **Navistar is ready** with an engine that does meet the 0.2-gram NOx limit, and it submitted its specifications to the EPA on Tuesday.

But **"we can't get optimum performance" in fuel economy, and executives don't want to release the engine for sale,** Hebe said. Tests show the point-2 engine, a 12.4 liter Maxx Force 13, gets fuel economy as good as the current model, but execs want it to be better...".

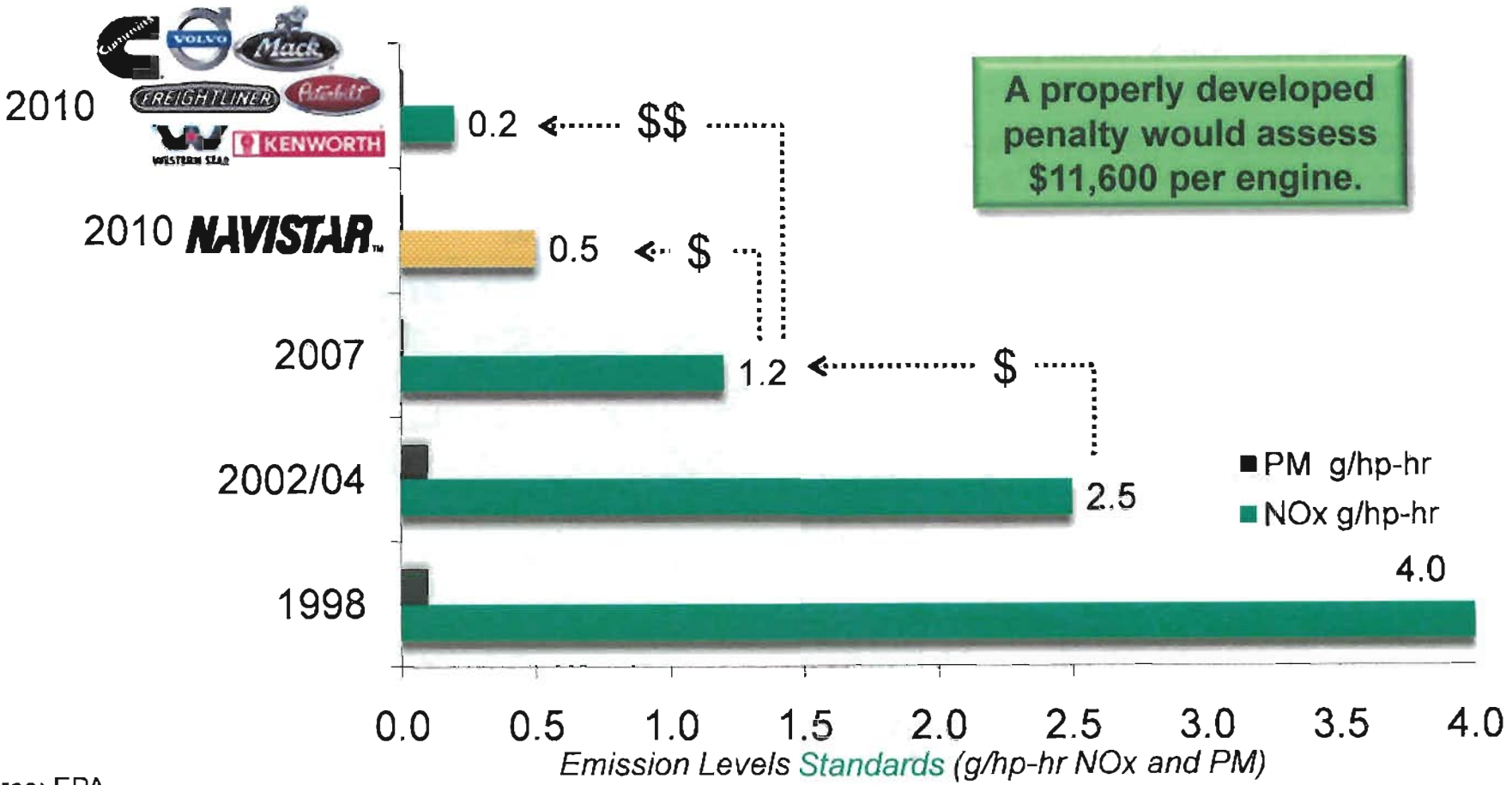
HDT
HEAVY DUTY TRUCKING
THE FLEET BUSINESS AUTHORITY

Source: TruckingInfo.com is an online resource for *Heavy Duty Trucking* (Newport Business Media)

Mack VOLVO

The proposed non-conformance penalties are grossly insufficient

Obtaining 0.2 vs. 0.5 a significant difference in investment



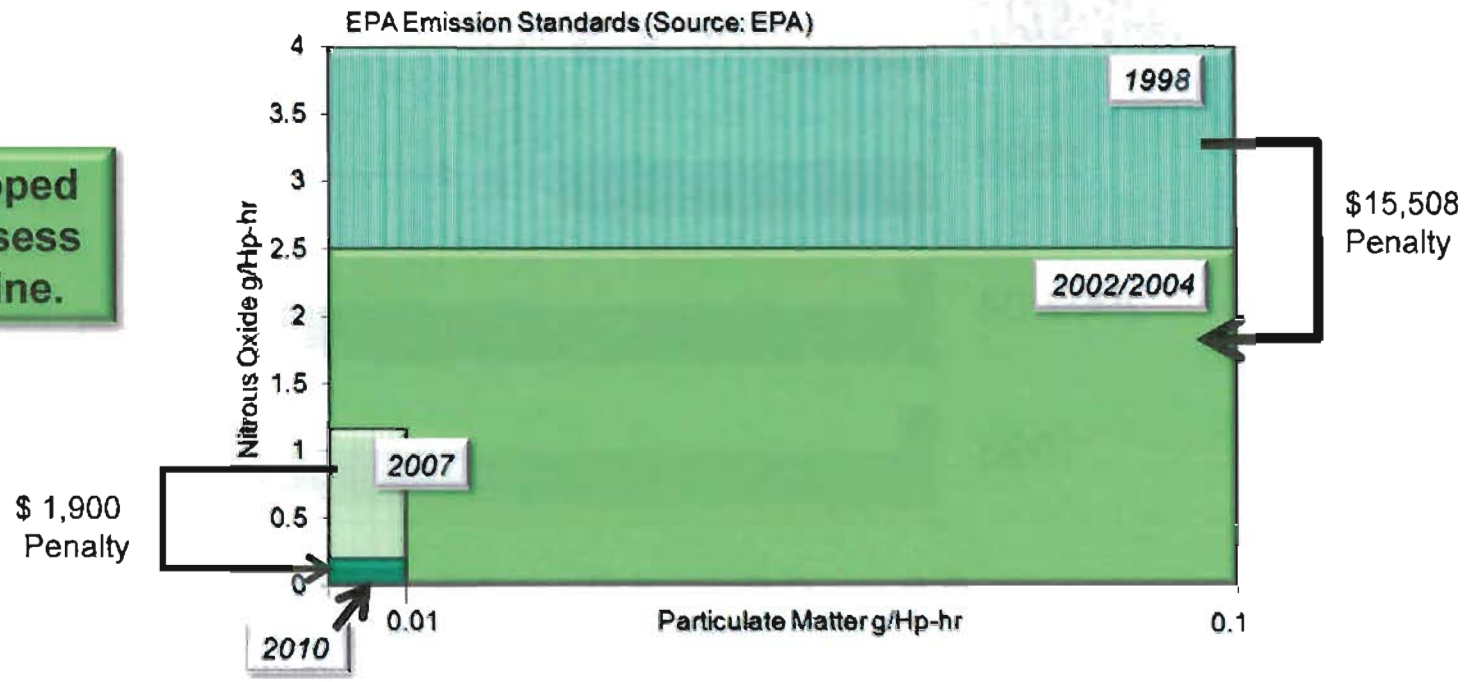
A properly developed penalty would assess $11,600 per engine.

Source: EPA

Amount set for NCPs inconsistent with past practice and the investment required to meet emission level

- Navistar has used credits during 2010-2012 to sell engines. After over 2 years using credits, and 11 years of knowing the standard, EPA allows them to continue selling dirty engines.
- In 2004 the NCP was **$15,508** per engine for NOx emissions 2.5 times the standard....a much easier standard to meet.
- The 2010 maximum **$1,900** in no way "penalizes" the non-conformer, but rewards it for not making investment to meet EPA's required standards

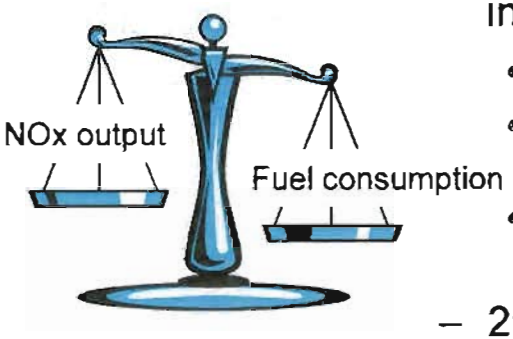
A properly developed penalty would assess $11,600 per engine.



Properly Defining the "Lag Time"

- Any reasonable understanding of "technical laggard" would mean that the lag time should be from the date the standard was fully in effect and other manufacturers began compliance to the new emissions limit = Jan. 1, 2010.
  - 2012 is the (3rd) third year for penalty escalation.
  - Penalties are to escalate each year

2% fuel savings if 0.5 g vs. 0.2 g allowed?



Ex: If NOx = 0.5 g then fuel consumption will be LESS than if NOx = 0.2 g

- EPA inconsistent in assumptions related to NOx reduction and fuel consumption
  - NCP rule: EPA assumes no fuel consumption improvement gained if industry were allowed to increase NOx from 0.2 g/hp-hr to 0.5 g/hp-hr.
    - Assumption inconsistent with technology experts
    - 2% DEF + fuel savings if shift in optimal SCR Operating Point for .5 g vs .2 g NOX with 90% Conversion Efficiency
    - An average long haul trucking company spends $90-100k annually on fuel . A 2% saving means the penalty would be re-covered in the first year of operation.
  - 2011 GHG/FE rule: provided exception for increased fuel consumption when NOx was decreased from .5 to .2 g/bhp-hr = a direct concession to Navistar.
  - EPA also noted it expected reduced fuel consumption with improvements in SCR NOx conversion. Increasing allowable tailpipe NOx has the exact same effect.
    - Reference:**Federal Register** /Vol. 76, No. 179 /Thursday, September 15, 2011 /Rules and Regulations **57205**

Allowing Navistar to continue "as is" takes away American jobs

In 2010-2011, nearly half of Navistar 's Class 8 Trucks sold in USA, **were built in Mexico.**

NAVISTAR

Production Plant in Escobedo, Mexico
In 2011: 15,814 trucks built in Mexico were sold in US

All Mack and Volvo trucks for U.S. market are exclusively assembled in the United States.

Production Plants:
Pennsylvania, Maryland, Virginia
Employ >5,000 workers

Source:Ward's

There was no good cause for the Interim Final Rule

The EPA maintains there is "no risk to the public interest in allowing manufacturers to certify using NCP's before the point at which EPA could make them available through a full notice-and-comment rulemaking"

If there is no public interest, then why set a standard at 0.2 grams?

Navistar Manipulated EPA and the Regulatory System

- Every manufacturer closely tracks its past and projected sales.
- Depletion of Navistar's NOx credit bank was fully predictable well in advance.
- Navistar could have requested NCP's with plenty of time for a proper rulemaking.

Administrative Procedure Act (APA) and Clean Air Act (CAA) requirements were not followed in this rulemaking

- EPA should follow its own past best practices publishing NPRMs
- Industry input was not properly obtained with adequate time and appropriate documentation
- No opportunity to challenge the process prior to the Interim Final Rule going into effect.
- EPA invented a rationale for fabricating inputs into its NCP formulae – with no opportunity to challenge

Conclusion and Summary

- Navistar is not a "technological laggard" and does not qualify for non-conformance penalties
- The proposed non-conformance penalties are grossly insufficient
  - The investment difference to meet 0.2 g vs. 0.5 g is significant
- There was no good cause for the Interim Final Rule

Non-compliance should never be a competitive advantage.